

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATION BOARD
REGION 9

DUKE ENERGY NORTH AMERICA, LLC,
HANGING ROCK ENERGY FACILITY ^{1/}

Employer

and

Case 9-RC-17791

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL UNION #317, AFL-CIO ^{2/}

Petitioner

ACTING REGIONAL DIRECTOR'S DECISION AND
DIRECTION OF ELECTION

The Employer, a power company headquartered in Charlotte, North Carolina, is engaged in the operation of several power plants located throughout the United States, including the Hanging Rock Energy facility in the vicinity of Ironton, Ohio. The Petitioner has filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit comprised of all full-time and regular part-time production technicians I, II, III and IV, warehouse technicians, and instrument and control technicians employed by the Employer at its Hanging Rock Energy facility, excluding all administration technicians, plant engineers, office clerical employees, and guards and supervisors as defined in the Act. There is no history of collective bargaining affecting the employees involved in this proceeding.

A hearing officer of the Board held a hearing and the Employer and Petitioner filed briefs with me. The parties disagree with regard to the unit placement of four lead production technicians (Leads). The Employer asserts that the Leads are supervisors within the meaning of Section 2(11) of the Act and must be excluded from the unit. On the other hand, the Petitioner contends that the Leads are not statutory supervisors and that they share a community of interest with other unit employees. The parties agree that this is the only issue in dispute. Excluding the Leads, the unit sought by the Petitioner consists of 19 employees, while the unit size, including the Leads, consists of 23 employees.

I have carefully considered the evidence and the arguments presented by the parties and have concluded, as discussed below, that the Leads are indeed supervisors within the meaning of the Act and, therefore, must be excluded from the unit. Accordingly, I have directed an election

^{1/} The Employer's name appears as amended at hearing.

^{2/} The Petitioner's name appears as amended at hearing.

in a unit of approximately 19 full-time and part-time production technicians I, II, III and IV, warehouse technicians, and instrument and control technicians, excluding, among others, the Leads, employed at the Employer's Hanging Rock Energy facility located in Ironton, Ohio.

An overview of the Employer's operations provides the context for my discussion of the issue of the supervisory status of the Leads. I will then present, in detail, the facts and reasoning that supports my conclusions.

I. OVERVIEW OF OPERATIONS

The Employer's Hanging Rock facility is a combined cycle power plant. A combined cycle power plant uses gas turbines that exhaust heat to recovery steam generators. That steam is then sent to a steam turbine. The power generated by this process is sent through a transmission system and is dispatched to wholesale customers.

The power plant's physical structure consists of two very large buildings. Each building contains two combustion turbines, a steam turbine, and associated auxiliary equipment. Outside of the two main buildings are two large cooling towers and there are also some smaller buildings. These smaller buildings include a water treatment building, a warehouse, and an administration building. The facility is still in a commissioning phase, meaning that its power delivery systems are still being tested and that certain areas of the physical structure are not entirely constructed. The entire complex is set on a large tract of land estimated at 10 to 20 acres, with several physical structures occupying perhaps a third of that property.

The managerial hierarchy of the facility consists of the plant manager, Ken Gestel, who is in charge of the day-to-day operation of the facility and is the highest ranking manager on-site. Reporting to Gestel are Scott Jacobucci, operations and maintenance superintendent; Darrell Boyll and Charles Dameron, production team leaders (PTLs); and Robert Snyder, plant engineer, who is a professional employee. Under the PTLs there are the 4 Leads and 16 production technicians (PTs). There are also two instrument control and electrical technicians and one warehouse technician, all of whom report directly to Jacobucci, although it appears from the Employer's "Plant Structure Chart" that Dameron also has some responsibility for those employees.

The Employer operates four production shifts referred to as shifts A, B, C, and D. The shifts are 12 hours long and are on a rotating schedule from day to night. Each shift is staffed with one Lead and four PTs. When the Employer is completely commercial, expected to occur later this summer, the production schedule will be modified somewhat to provide employees with more time off work, although there will still be four shifts. The normal schedule for all of the Employer's stipulated managers and supervisors is from 7 a.m. to 5 p.m., Monday through Friday. However, they are currently working longer hours and different days during the commissioning phase for the facility. For example, the PTLs currently alternate their work schedules and take turns working on the weekends. All of the Employer's stipulated supervisors are "on call" when they are not at the facility, but at night, the Lead is the highest ranking employee at the facility. The record does not disclose the purpose for the supervisors being "on call."

Leads are hourly paid and their average wage rate is \$5 more an hour than the average hourly wage received by the PTs. All of the stipulated managers and supervisors above the Leads are salaried. The record does not disclose the difference between the amount of wages paid to the Leads and the amount paid to the salaried PTLs. All of the Employer's employees receive the same fringe benefits. The Leads and the PTs are covered under the same incentive or bonus plan and receive the same compensation if certain unspecified measures are met. The PTLs are compensated on the basis of meeting the same measures, but apparently receive a higher compensation ratio.

Lead Production Technicians

The four leads in dispute are: William Westcamp, A shift Lead; Mark Tolliver, B shift Lead; Garrick Alexander, C shift Lead; and Mark Rabalais, D shift Lead. At the beginning of each shift the oncoming Lead discusses the status of the plant with the Lead who is completing his shift. If the plant is in an operating mode they confer about the timing for any start up of the turbines. They also discuss any other activities, such as scheduled maintenance, that may be planned for the day. The day shift Leads meet briefly with managers each morning at which time they are advised of any issues with the commissioning phase of the plant, construction, and of any visitors expected at the facility.

Each Lead is responsible for a crew consisting of two "outside" PTs and of two "inside" PTs. The outside PTs work throughout the facility and outside of the control room. The inside PTs work in the control room. One of the outside PTs usually performs water treatment by bringing river water into the facility and "clarifying" it. By this process the water is ultra-purified so that it is "boiler quality." The other outside PT is primarily engaged in checking out equipment for service needs. He checks valve alignments and examines any of the equipment that needs to be started up to ensure that it is ready to go and that it can be started without failure. The outside PTs occasionally alternate performing these distinct tasks at the behest of the Lead.

It takes an outside PT approximately 4 hours to go through the facility and check equipment readings to ensure that those readings are within permissible parameters for operation. As the PTs check the equipment, they write the equipment reading information in a log sometimes referred to as a "round." It is the Leads' responsibility to review the round for accuracy, to ensure specification compliance, and to work with the PTs to determine the cause of any errors and to correct them. The Lead uses a combination of experience and established "normal" readings guidelines to recognize an entry error on the round. In this regard, the record reflects an instance in which a Lead checked a PT's log and found that he had erroneously recorded one of his measurements in metric units instead of English units. In this case, the Lead went to the gauge and verified that the numbers were correctly entered on the log. However, had the mistake been repeated, the Lead would have explained the correct procedure to the PT. The Lead must sign the log prior to turning it in.

The Leads are held responsible for ensuring that certain tests on their shifts are performed. If a member of the Lead's crew fails to perform a required test, such as a water

sample test, the Lead is held responsible. However, the record does not disclose how the Lead is held responsible.

The inside PTs may work in the control room the entire shift. However, depending on the needs of the plant, one of the control room PTs or the Lead may work outside of the control room assisting with various tasks that must be performed to keep the facility operating and in proper operating condition. The Lead determines, although he may seek a consensus, whether he and/or one of the control room technicians will assist the outside PTs. Although the more experienced PTs are typically the PTs who work in the control room, at least one of the Leads, required that his crew's inside and outside PTs cross train each other.

The PTLs prepare a schedule 1 month in advance that sets forth the preventative maintenance tasks that need to be accomplished and the time frame for accomplishing those tasks. They then provide the Leads with work orders that set forth certain maintenance tasks for which each Lead and his crew are responsible. The Leads are entirely responsible on a daily basis for assigning PTs to their daily maintenance and production tasks. They do this by writing down assignments on the "white board," a dry erase board that is located in the control room. Leads assign PTs their tasks based upon the Leads' assessment of the individual PT's ability to perform tasks of varying complexity and based upon the Leads' discretion in prioritizing tasks. Leads have full authority to reassign, and the record shows they have done so, PTs from one task to another based upon their assessment of the priority of the tasks.

There was testimony at the hearing regarding the Leads' authority to release PTs from work early. Lead Westcamp, who became a lead in March 2003, appeared to be uncertain whether he has the authority to release PTs to go home early. Lead Rabalais' testimony with regard to this issue was also vague, noting that he does not know whether he has the authority to release employees early, but that he would recommend to sick employees that they go home. Superintendent Jacobucci and Lead Alexander, however, testified unequivocally that the Leads may use their discretion to allow PTs to leave work early if work is slow. Lead Alexander gave an example where he allowed a PT to leave work early and take his wife to a medical appointment at a time when there was little work to do. Superintendent Jacobucci testified about an occasion when he told a PT, who had asked him if he could leave early, that he would have to check with his Lead to find out if he had permission. There does not appear to be any set criteria which define for the Lead when work is sufficiently slow that he may allow PTs to leave early. Similarly, it appears that the Leads possess the authority, although apparently not yet exercised, to call additional employees in should additional manpower be needed. Lead Alexander testified that he has requested PTs to work overtime. Although a sufficient number of PTs voluntarily honored Alexander's request, he noted that had no one volunteered, he would have required someone to stay. The Leads also complete evaluations of the employees on their team. However, there is no evidence whether the evaluations are independently used to reward employees through pay increases or to determine whether employees will be retained.

The record discloses that Leads have been involved in the interview process and that they have recommended applicants for hire. After an applicant is interviewed in the conference room, a Lead takes him on a tour of the plant in an effort to assess his level of experience and to determine whether his personality would be a good fit with the nature of the work. Alexander

testified that he has taken three or four applicants to tour the plant and recommended two for hire. The two applicants that he recommended were, in fact, hired. The record does not disclose whether the other applicant(s) were hired. Further, the record does not disclose whether the Lead's recommendation was necessary for the applicant to be hired. When new employees are hired, the Lead may, at his discretion, assign one or more of the PTs on his team to assist in training the new employee or may perform the training himself.

When the Employer's facility is fully on line for commercial use, non-production time will be used to perform preventative and repair maintenance tasks. Leads will assign PTs to perform various maintenance tasks and then inspect the completed work and indicate on a report that it has been completed. On a daily basis the Leads will be required to submit a schedule of power availability to the Employer's sales division located in Houston, Texas. Based upon the Lead's assessment of the power availability, the sales unit will attempt to sell the available energy and send a dispatch order to the facility specifying how much power needs to be generated to meet customers' needs. The day shift Lead will acknowledge the dispatch order and agree that the facility is capable of generating power to meet the sales demands. He will then turn the dispatch order over to the night shift lead who starts work at 7 p.m. It is ultimately the Lead's responsibility to fill the dispatch order.

II. THE LAW AND ITS APPLICATION

Before examining the specific duties and authority of the Leads, I will review the requirements for establishing supervisory status. Section 2(11) of the Act defines the term supervisor as:

Any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

To meet the definition of supervisor in Section 2(11) of the Act, a person needs to possess only 1 of the 12 specific criteria listed, or the authority to effectively recommend such action. *Ohio Power Co. v. NLRB*, 176 F.2d 385 (6th Cir. 1949), cert. denied 338 U.S. 899 (1949). The exercise of that authority, however, must involve the use of independent judgment. *Harborside Healthcare, Inc.*, 330 NLRB 1334 (2000).

The burden of proving supervisory status lies with the party asserting that such status exists. *Kentucky River Community Care, Inc.*, 532 U.S. 706, 711-712 (2001); *Michigan Masonic Home*, 332 NLRB No. 150, slip op. at 1 (2000). The Board has frequently warned against construing supervisory status too broadly because an employee deemed to be a supervisor loses the protection of the Act. See, e.g., *Vencor Hospital – Los Angeles*, 328 NLRB 1136, 1138 (1999); *Bozeman Deaconess Hospital*, 322 NLRB 1107, 1114 (1997). Lack of evidence is construed against the party asserting supervisory status. *Michigan Masonic Home*, supra, slip op. at 1. Finally, mere inferences or conclusionary statements without detailed specific evidence

of independent judgment, are insufficient to establish supervisory status. *Sears, Roebuck & Co.*, 304 NLRB 193 (1991).

Possession of authority consistent with any of the indicia of Section 2(11) is sufficient to establish supervisory status, even if this authority has not yet been exercised. See, e.g., *Pepsi-Cola Co.*, 327 NLRB 1062, 1063 (1999); *Fred Meyer Alaska*, 334 NLRB No. 34, slip op. at 4 n. 8 (2001). The absence of evidence that such authority has been exercised may, however, be probative of whether such authority exists. See, *Michigan Masonic Home*, supra, slip op. at 3; *Chevron U.S.A.*, 309 NLRB 59, 61 (1992).

In considering whether the Leads possess any of the supervisory authority set forth in Section 2(11) of the Act, I note that in enacting this section of the Act, Congress emphasized its intention that only supervisory personnel vested with “genuine management prerogatives” should be considered supervisors, and not “straw bosses, leadmen, set-up men and other minor supervisory employees.” *Chicago Metallic Corp.*, 273 NLRB 1677, 1688 (1985). I conclude, for the reasons discussed below, that the four Leads in issue here are statutory supervisors.

The Employer asserts that the Leads possess many of the indicia of statutory supervisors. Thus, the Employer contends that they assign and responsibly direct employees, effectively recommend hiring of employees, discipline employees, and perform evaluations that can lead to rewards or discipline. I find, as detailed below, that lead production technicians use independent judgment in assigning and responsibly directing employees. Accordingly, as the possession of any one of the specific criteria listed is sufficient for a finding of supervisory status, I find it unnecessary to address in detail the other criteria asserted by the Employer to be indicative of supervisory status.

Assignment and Direction of Work

With regard to the assignment and direction of work, the record discloses that the types of assignment and direction are not merely routine but require the use of independent judgment. See *Kentucky River Community Care, Inc.*, supra. In determining whether individuals possess true supervisory indicia, utilizing independent judgment, the Board looks to established constraints or guidelines under which the individuals work and the accountability of the individuals whose supervisory status are in dispute. *Providence Hospital*, 320 NLRB 717 (1996).

The Leads are responsible for ensuring that PTs correctly monitor equipment and perform scheduled maintenance duties. In performing these tasks, the Leads use their judgment, unconstrained by any standing orders from higher level management, to determine which PTs are most capable of performing various tasks and based on their discretion to make work assignments to the PTs. See e.g. *McClatchy Newspapers, Inc.*, 307 NLRB 773, 779 (1992); *Rose Metal Products, Inc.*, 289 NLRB 1153 (1988). At least one of the Leads has used his discretion to assign the PTs on his crew to train a new employee and to cross train one another. See, *McClatchy Newspapers, Inc.*, supra at 779. The Leads’ responsibility to make assignments to the PTs is not limited merely to the assignment of tasks to employees on a rotating basis or an effort

to equalize work loads, but rather is based on the Leads' independent assessment of the PTs' abilities and the priority of the tasks to be performed.

The leads are required to initial the "rounds" performed by the PTs and are held responsible for ensuring that they are accurate. In addition, the Leads indicate that they are not just responsible for double checking the PTs' work on the rounds, but also are responsible for ensuring that the PTs complete their rounds. Although the leads appear to have different styles in leading the PTs and some appear to have a "lead by consensus" style, it is ultimately up to the lead to determine how he will utilize his crew's PTs to carry out the work he is assigned and the leads are held responsible if the work is not completed. From the uncontradicted testimony of the leads and the operations and maintenance superintendent, it is evident that leads are responsible for the work performed by their crews.

The record also establishes that the Leads possess the authority to temporarily, at least, alter employees' work schedules by independently approving PTs' requests to leave work early. Significant to my finding is that Alexander has actually exercised this authority on at least one occasion. Also significant is the fact that Superintendent Jacobucci testified that he has redirected PTs who asked him for permission to leave early back to the Leads to make the final decision. It is clear that in making these decisions, the Leads must balance the employee's desire for time off against the plant's operational requirements. Additionally, the Leads appear to possess the authority, whether exercised or not, to call in employees to cover for absences and at least one Lead has requested that PTs work overtime. Accordingly, it appears that Leads exercise independent judgment in matters affecting the work schedules of PTs, which, standing alone, is sufficient to confer supervisory status. *DST Industries*, 310 NLRB 957, 958 (1993); *Delta Carbonate, Inc.*, 307 NLRB 118 (1992).

Other Indicia

Finally, the record discloses that the Leads are the highest ranking officials in the facility during the night shift. Thus, if the Leads are not supervisors, there would be no one to responsibly direct the PTs during the night shift. See *Essbar Equipment Co.*, 315 NLRB 461 (1994). Additionally, it has been noted that in the public utility industry, where contingencies not covered by standing regulations and policies are likely to occur, independent judgment must, by necessity, be exercised. *Maine Yankee Atomic Power Co. v. NLRB*, 624 F.2d 347 (1st Cir. 1980). If I were to find that the leads are not supervisors, I would be reaching the unlikely conclusion that once the power plant becomes operational, it will run from 5 p.m. to 7 a.m. without any onsite supervision. It is not believable that the Employer would operate a power plant for an extended period of time without any supervisors on site. *Caremore, Inc. v. NLRB*, 129 F.2d 365, 370 (6th Cir. 1997); *NLRB v. Beacon Light Christian Nursing Home*, 825 F.2d 1076, 1080 (6th Cir. 1987). Additionally, I note that some secondary indicia also favor a finding that leads are supervisors. Leads are paid more than PTs, have personal sets of keys to the facilities, attend management meetings, and are authorized to pledge the Employer's credit and purchase supplies.

The Petitioner contends that the Leads are not statutory supervisors because they are classified as "production technicians," they are compensated differently than stipulated statutory supervisors, receive no extra pay for performing Lead duties, the Employer's organizational

chart does not show anyone reporting to the Leads, and they only have four other employees on their respective shifts. However, it is well settled that the foregoing is merely so-called “secondary indicia” of supervisory status. See *Chevron U.S.A. Inc.*, 309 NLRB 59 (1992). Thus, because of my findings that Leads have the authority to assign and responsibly direct the PTs within the meaning of Section 2(11) of the Act, the presence of these secondary indicia is irrelevant.

III. CONCLUSION

Based on the foregoing, the record as a whole, and having carefully considered the arguments of the parties at the hearing and in their briefs, I find that the Employer has met its burden of proving that the Leads are statutory supervisors. Thus, they have the authority in the interest of the Employer to assign and responsibly direct work with the use of independent judgment.

The Petitioner argues in its brief that the PTLs “lay out” the work for the Leads and their crews to perform, and establish that the Leads do not have independent judgment within the meaning of the Act. However, as I have discussed earlier, the Leads exercise independent judgment in assigning and prioritizing the work given to them by the PTLs.

Because of my findings, I find it unnecessary to belabor my findings with regard to the supervisory status of Leads by addressing fully the remaining alleged indicia of supervisory status. However, I note briefly that the assertion that Leads can effectively recommend the hire of new employees is too vague to support a finding of supervisory status; see *Wake Electric Membership Corp.*, 338 NLRB No. 32 (2002); and perform evaluations that impact whether employees receive pay increases. Likewise, the evidence pertaining to the Leads fails to establish a direct connection between the evaluation and employees’ terms and conditions of employment. See *Beverly Enterprises, Alabama, Inc. d/b/a Riverchase Health Center*, 304 NLRB 861 (1991).

Accordingly, I conclude that the lead technicians are supervisors within the meaning of Section 2(11) of the Act. Therefore, I have excluded them from the unit found appropriate.

IV. EXCLUSIONS FROM THE UNIT

The parties agree, the record shows, and I find that the following persons are supervisors within the meaning of the Act: Ken Gestel, plant manager; Scott Jacobucci, operations and maintenance superintendent; Darrell Boyll, production team leader; and Charles Dameron, production team leader. Consistent with my conclusions herein, I also find that the following persons, i.e., the lead technicians, are supervisors within the meaning of the Act: William Westcamp, Mark Tolliver, Garrick Alexander and Mark Rabalais. Accordingly, I will exclude them from the unit.

Further, in agreement with the parties and based on the record, I find that Robert Snyder, plant engineer, is a professional employee. Accordingly, I will exclude him from the unit.

V. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production technicians, warehouse technicians, and instrument control and electrical technicians working at the Employer's 1395 County Road 1A, Ironton, Ohio facility, excluding all administration technicians, plant engineers, office clerical workers, lead technicians, confidential employees, professional employees, guards and supervisors as defined in the Act.

VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Electrical Workers, Local Union #317, AFL-CIO. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. VOTING ELIGIBILITY

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their

replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. EMPLOYER TO SUBMIT LIST OF ELIGIBLE VOTERS

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **June 30, 2003**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (513) 684-3946. Since the list will be made available to all parties to the election, please furnish **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. NOTICE OF POSTING OBLIGATIONS

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

VII. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDST on **July 7, 2003**. The request may **not** be filed by facsimile.

Dated at Cincinnati, Ohio this 23rd day of June 2003.

/s/ Earl L. Ledford, Acting Regional Director

Earl L. Ledford, Acting Regional Director
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